

IN THE MATTER OF)

SCOTT PAPER COMPANY, INC.)

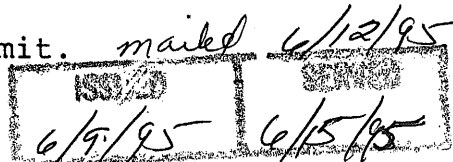
COOSA COUNTY, ALABAMA)

CONSENT ORDER NO. 95-071-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975) §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), and the Alabama Water Pollution Control Act, Code of Alabama (1975) §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.), the Alabama Department of Environmental Management (the Department) makes the following FINDINGS:

1. Scott Paper Company, Inc., (Scott Paper) is a corporation doing business in the State of Alabama.
2. Among other things, Scott Paper conducts timber harvesting operations.
3. Scott Paper contracted to have Robert Shelnutt, doing business as Shelley Pulpwood and Logging, harvest timber on its behalf along Stewart Branch and unnamed tributaries of Stewart Branch in Coosa County, Alabama.
4. Thereafter, Robert Shelnutt did, in fact, harvest timber along Stewart Branch and its unnamed tributaries on behalf of Scott Paper. This timber harvesting operation was completed on August 19, 1994.
5. Stewart Branch and the unnamed tributaries of Stewart Branch are waters of the State of Alabama (the State).
6. Section 22-22-9(i), Code of Alabama 1975 (1990 Rplc. Vol.) prohibits the discharge of any pollutant by any person into a water of the State without a permit.



7. Neither Scott Paper nor Robert Shelnutt have a permit to discharge pollutants into Stewart Branch or its unnamed tributaries.

8. On September 14, 1994, Department personnel inspected the site of the timber harvesting operation described hereinabove.

9. The inspection revealed that standing timber and other vegetation had been removed by the timber harvesting operation from various points along the banks of Stewart Branch and its unnamed tributaries.

10. The timber harvesting operation conducted on behalf of Scott Paper caused the unpermitted discharge of pollutants such as tree tops, brush, logs, whole trees, and sediment into Stewart Branch and its unnamed tributaries.

11. Alabama's Best Management Practices (BMPs) for forestry were drawn so that their use would minimize unpermitted discharges of pollutants to waters of the State from timber harvesting operations.

12. Scott Paper has a working knowledge of Alabama's BMPs for forestry.

13. Nonetheless, the BMPs were not implemented at this site.

14. Further, Scott Paper had been notified on four previous occasions that timber harvesting operations conducted on its behalf had caused the discharge of pollutants into waters of the State.

15. Scott Paper asserts that it did not directly participate in the logging operation and that it was unable to control the conduct of the operation.

16. Since the Department's September 14, 1994, inspection, Scott Paper has remediated the site in a manner acceptable to the Department.

17. During the course of its remediation, Scott Paper fully cooperated with the Department and its dealings with the Department were businesslike and professional at all times.

18. Scott neither admits nor denies the Findings contained in this Consent Order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, Scott consents to the terms of this Order.

19. The Department agrees to this Consent Order upon a determination that the terms are in the best interests of the citizens of Alabama in resolving the allegations cited above.

ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16 and 22-22-1 through 22-22-14 (1990 Rplc. Vol.), it is hereby ORDERED or AGREED:

A. That immediately upon receipt or notice of this Order, Scott Paper shall cease all unpermitted discharges of sediments and logging debris to any waters of the State.

B. That upon notice or receipt of this Order, all logging or timber harvesting operations conducted by or on behalf of

Scott Paper shall utilize and conform to Alabama's BMPs for forestry.

C. That Scott Paper shall pay a Ten Thousand Dollar (\$10,000.00) penalty to the Department for the violations identified in Paragraph 10.

D. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to sign this Order on behalf of the party represented and to legally bind such party to the terms and conditions of this Order.

E. That Scott is not relieved from any liability if it fails to comply with any provision of this Consent Order.

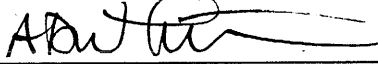
F. That for purposes of this Order, Scott agrees that it is proper for the Department to bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including but not limited to the Circuit Court of Montgomery County, Alabama. Scott further agrees that in any action brought by the Department to compel compliance with the terms of this Order, Scott shall be limited to the defenses of Force Majeure, compliance with this Consent Order, and physical impossibility.

G. That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional

facts and circumstances be discovered in the future concerning Scott, which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Scott shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

H. By agreement of the parties, this Order shall be considered final and effective immediately upon execution and issuance by the Director. This Consent Order shall not be appealable, and Scott does hereby waive any right to a hearing or appeal on the terms and conditions contained herein.

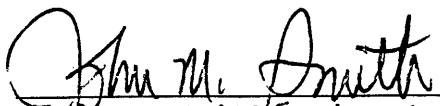
SCOTT PAPER COMPANY, INC.

BY:  DATE: June 5, 1995
Signature

A.D. WHITE

ITS: MGR. OF WOODLANDS, SOUTHERN OPERATIONS
Print Name and Title of Authorized Officer or Agent

ORDERED and ISSUED this 9th day of June, 1995.


John M. Smith, Director
Alabama Department of
Environmental Management